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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MIGUEL ALARCON CASAS; REYNA
ALARCON,

Petitioners,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 07-70169

Agency Nos. A79-539-697
A79-539-698

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted March 18, 2008**

Before: CANBY, T.G. NELSON, and BEA, Circuit Judges.

Miguel Alarcon Casas and Reyna Alarcon, natives and citizens of Mexico,
petition pro se for review of an order of the Board of Immigration Appeals (“BIA”)

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

denying petitioners' motion to reopen the underlying denial of their application for cancellation of removal, which was based on their failure to establish the requisite hardship to their qualifying United States citizen children.

We lack jurisdiction to review the BIA's decision not to reopen proceedings because petitioners failed to meet their burden to demonstrate that a new decision on their cancellation of removal application was warranted. *See Fernandez v. Gonzales*, 439 F.3d 592, 600 (9th Cir. 2006) (concluding that the court lacks jurisdiction to review the BIA's denial of motion to reopen for failure to establish a prima facie case if a prior adverse discretionary decision was made by the agency).

The BIA also properly determined that petitioners' motion, construed as a motion to reconsider, was untimely. *See* 8 C.F.R. § 1003.2(b) (providing that a motion to reconsider must be filed within 30 days after the date on which a final administrative decision was filed).

PETITION FOR REVIEW DISMISSED in part; DENIED in part.